

**WHITE & WOLNERMAN, PLLC**

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Irrevocable Trust*

**UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK**

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In re:

Chapter 11  
Case No. 14-13407 (MG)

EMERALD INVESTMENTS, LLC

Debtor.

-----X

In re:

Chapter 11  
Case No. 14-13406 (MG)

ASHLEY RIVER CONSULTING, LLC

Debtor.

-----X

**APPELLANT’S STATEMENT OF ISSUES ON APPEAL  
AND DESIGNATION OF RECORD ON APPEAL**

The Gayla Longman Family Irrevocable Trust, a party in interest in the above-captioned bankruptcy cases (the “Gayla Trust”), by and through its undersigned counsel, pursuant to Rule 8009 of the Federal Rules of Bankruptcy Procedure, hereby identifies the following issues on appeal from the Order (the “Order”)<sup>1</sup> approving the relief requested in the Motion (the “Sale Motion”) of Kriti Ripley, LLC (“Kriti”), Ashley River Properties II, LLC (“ARPII”), and Ian J.

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<sup>1</sup> Case No. 14-13406 [Docket No. 47]; Case No. 14-13407 [Docket No. 79].

Gazes, Chapter 11 trustee of the above-captioned Debtors (the “Trustee”) to establish marketing, bidding and auction procedures, entered in the United States Bankruptcy Court for the Southern District of New York, on July 14, 2015, and designation of record on appeal:

**STATEMENT OF ISSUES ON APPEAL**

1. Whether the Bankruptcy Court erred in finding that the relief requested in the Sale Motion represents the exercise of the Trustee’s sound business judgment.
2. Whether the Bankruptcy Court erred in considering the history of Stuart Longman and/or his related entities in determining that the relief requested in the Sale Motion represents the exercise of the Trustee’s sound business judgment.
3. Whether, based upon the evidence submitted by the Trustee and/or ARPPI/Kriti, the Bankruptcy Court erred in finding that “[a]bsent a sale of the Marina Property, Emerald’s membership interest in ARPPI is relatively illiquid and has potentially little value because it carries no voting rights.”
4. Whether the Bankruptcy Court erred by approving a sale process the terms of which, among other things, requires a minimum purchase price in excess of the appraised value of the property to be sold.
5. Whether, based upon the evidence submitted by the Trustee and/or ARPPI/Kriti, the Bankruptcy Court erred in finding that the marketing and due diligence periods established in connection with the property to be sold is sufficient under the circumstances of these cases.
6. Whether, based upon the evidence submitted by the Trustee and/or ARPPI/Kriti, the Bankruptcy Court erred in finding that “Emerald is more likely to receive a benefit on account of its interest in ARPPI under the Sale Procedures than it would under a foreclosure sale of such interest proceeding under South Carolina Law.”
7. Whether the Bankruptcy Court erred by approving a sale process in which the Trustee, in consultation with ARPPI/Kriti, may select the highest or otherwise best qualified bid, after taking into account such factors as the price of such bids, the form and structure of the bids and any tax considerations, without distinguishing what is highest and best for the debtor estates as opposed to ARPPI/Kriti.
8. Whether the Bankruptcy Court erred in finding that the relief requested in the Sale Motion does not amount to a *sub rosa* plan of reorganization by dictating the terms of a Chapter 11 plan.
9. Whether the Bankruptcy Court erred by not allowing counsel to the Gayla Trust to cross examine the Trustee regarding the distribution of sale proceeds, on the grounds such line of questioning “is not a proper subject for this bidding procedures motion”, thereby preventing the Gayla Trust from cross-examining the Trustee on the issue of whether the

Sale Motion amounts to a *sub rosa* plan of reorganization by dictating the terms of a Chapter 11 plan.

**DESIGNATION OF RECORD ON APPEAL<sup>2</sup>**

**A. ASHLEY RIVER CONSULTING, LLC - Case No. 14-13406**

	<b>Description</b>	<b>Docket Number</b>	<b>Date Filed</b>
1	Voluntary Petition (Chapter 11)	1	12/15/14
2	Declaration Pursuant to Local Bankruptcy Rule 1007-4	6	12/29/14
3	Statement of Financial Affairs	7	12/29/14
4	Schedules of Assets and Liabilities	8	12/29/14
5	Statement of Financial Affairs	10	12/29/14
6	Letter Filed by Michael T. Driscoll on behalf of United States Trustee	19	2/26/15
7	Motion of the United States Trustee for the Entry of an Order Directing the Appointment of a Chapter 11 Trustee	20	3/04/15
8	Debtors' Objection to Motion of the United States Trustee for Entry of an Order Directing the Appointment of a Chapter 11 Trustee	23	3/12/15
9	Order signed on 3/16/2015 Granting Re: Directing the Appointment of a Chapter 11 Trustee	24	3/16/15
10	Notice of Appointment of Chapter 11 Trustee Ian Gazes	25	3/17/15
11	Application for Entry of an Order Approving the Appointment of the Chapter 11 Trustee	26	3/17/15
12	Order signed on 3/18/2015 Approving the Appointment of the Chapter 11 Trustee	27	3/18/15
13	Appointment of Chapter 11 Trustee /Acceptance of Appointment	28	3/19/15
14	Application to Employ Gazes LLC as Attorneys to the Chapter 11 Trustee	29	3/27/15
15	Notice of Presentment of Order Authorizing the Chapter 11 Trustee's Retention of Gazes LLC as Attorneys	30	3/27/15
16	Memorandum Opinion and Order, Signed on 3/31/2015, Directing the Appointment of a Chapter 11 Trustee in These Chapter 11 Cases	32	3/31/15
17	Order, signed on 4/14/2015, Authorizing the Retention of Gazes LLC as Counsel for the Trustee	33	4/14/15
18	Motion of Kriti Ripley, LLC, Ashley River Properties II, LLC, and Ian J. Gazes, as Trustee for Emerald Investments, LLC and	34	6/08/15

<sup>2</sup> Docket number references relate to all filings under such docket number, including the main filings and all exhibits and attachments thereto.

	Ashley River Consulting, LLC, for Order approving Marketing, Bidding and Sale Procedures in Connection with Joint Plan of Liquidation		
19	Joint Plan of Liquidation filed by the Trustee, Kriti Ripley, LLC and Ashley River Properties II, LLC	35	6/08/15
20	Disclosure Statement to accompany Joint Plan of Liquidation	36	6/08/15
21	Certificate of Service	37	6/10/15
22	Declaration of Davidson Williams, Managing Member, Kriti Ripley, LLC in support of Motion of Kriti Ripley, LLC, Ashley River Properties II, LLC, and Ian J. Gazes, as Trustee for Emerald Investments, LLC and Ashley River Consulting, LLC, for Order Approving Marketing, Bidding and Sale Procedures in connection with Joint Plan of Liquidation	38	6/16/15
23	Objection of the Gayla Longman Family Irrevocable Trust to the Motion for Approval of Bidding, Marketing and Sale Procedures	39	6/17/15
24	Certificate of Service	40	6/18/15
25	Certificate of Service	41	6/18/15
26	Notice of Adjournment of Hearing on Motion of Kriti Ripley, LLC, Ashley River Properties II, LLC, And Ian J. Gazes, as Trustee for Emerald Investments, LLC and Ashley River Consulting, LLC, for Order Approving Marketing, Bidding and Sale Procedures in Connection With Joint Plan of Liquidation	42	6/19/15
27	Notice of Filing of Revised Proposed Order Granting Motion of Kriti Ripley, LLC, Ashley River Properties II, LLC, and Ian J. Gazes, as Trustee for Emerald Investments, LLC and Ashley River Consulting, LLC, for Order Approving Marketing, Bidding and Sale Procedures in connection with Joint Plan of Liquidation	43	6/26/15
28	Declaration of David Y. Wolnerman in Support of Objection to Motion for Approval of Bidding, Marketing and Sale Procedures	44	6/30/15
29	Certificate of Service	45	6/30/15
30	Transcript regarding Hearing Held on 7/1/2015	48	7/06/15
31	Memorandum Opinion and Order, signed on 7/10/2015, Granting (I) Motion for Approval of Sale Procedures, and (II) Application to Retain Broker	46	7/10/15
32	Transcript regarding Hearing Held on 7/7/2015	49	7/13/15
33	Order signed on 7/14/2015 Approving Marketing, Bidding and Auction Procedures	47	7/14/15
34	All trial exhibits and all documents offered as evidence in connection with the evidentiary hearing on the Sale Motion	N/A	N/A

**B. EMERALD INVESTMENTS, LLC - Case No. 14-13407**

	<b>Description</b>	<b>Docket Number</b>	<b>Date Filed</b>
1	Voluntary Petition (Chapter 11)	1	12/15/14
2	Amended Voluntary Petition	4	12/15/14
3	Declaration Pursuant to Local Bankruptcy Rule 1007-4	8	12/29/14
4	Statement of Financial Affairs	9	12/29/14
5	Schedules of Assets and Liabilities	10	12/21/14
6	Statement of Financial Affairs	12	12/29/14
7	Motion of Kriti Ripley, LLC and Ashley River Properties II, LLC for an Order (A) Dismissing the Debtors Cases or, in the alternative, (B) Granting Relief from the Automatic Stay	22	2/02/15
8	Declaration of Davidson Williams, Managing Member, Kriti Ripley, LLC in Support of Motion of Kriti Ripley, LLC and Ashley River Properties II, LLC for an Order (A) Dismissing the Debtors Cases or, in the Alternative, (B) Granting Relief from the Automatic Stay	23	2/02/15
9	Debtor's Objection to Motion to Dismiss/Lift Stay	26	2/17/15
10	Objection of Schulte Roth & Zabel to Motion of Kriti Ripley, LLC and Ashley River Properties II, LLC to Dismiss Chapter 11 Case or, Alternatively For Stay Relief	27	2/17/15
11	Amended Schedules	31	2/20/15
12	Omnibus Reply to Motion to Dismiss, or in the Alternative for Relief from the Automatic Stay	32	2/20/15
13	Supplemental Declaration of Davidson Williams in Support of Motion to Dismiss, or in the Alternative for Relief from the Automatic Stay	33	2/20/15
14	Declaration of Brian Powers	35	2/23/15
15	Order signed on 2/24/2015 Denying Motion of Kriti Ripley, LLC and Ashley River Properties II, LLC for an Order (A) Dismissing the Debtor's Cases or, in the Alternative, (B) Granting Relief From the Automatic Stay	36	2/24/15
16	Letter Filed by Michael T. Driscoll on behalf of United States Trustee	37	2/26/15
17	Transcript regarding Hearing Held on 2/24/2015	50	3/02/15
18	Motion of the United States Trustee for the Entry of an Order Directing the Appointment of a Chapter 11 Trustee	38	3/04/15
19	Statement of Kriti Ripley, LLC and Ashley River Properties II, LLC in Support of Motion of The United States Trustee for the Entry of an Order Directing the Appointment of a Chapter 11 Trustee	41	3/12/15
20	Declaration of Davidson Williams in Support of Motion of The United States Trustee for the Entry of an Order Directing the Appointment of a Chapter 11 Trustee	42	3/12/15

21	Debtors' Objection to Motion of the United States Trustee for Entry of an Order Directing the Appointment of a Chapter 11 Trustee	43	3/12/15
22	Order signed on 3/16/2015 Directing The Appointment of A Chapter 11 Trustee	45	3/16/15
23	Appointment of Chapter 11 Trustee /Notice of Appointment of Chapter 11 Trustee Ian Gazes	46	3/17/15
24	Application for Entry of an Order Approving the Appointment of the Chapter 11 Trustee	47	3/17/15
25	Order, Signed on 3/18/2015, Approving the Appointment of the Chapter 11 Trustee	48	3/18/15
26	Appointment of Chapter 11 Trustee /Acceptance of Appointment	49	3/19/15
27	Application to Employ Gazes LLC as Attorneys to the Chapter 11 Trustee	51	3/27/15
28	Notice of Presentment of Order Authorizing the Chapter 11 Trustee's Retention of Gazes LLC as Attorneys	52	3/27/15
29	Memorandum Opinion and Order, Signed on 3/31/2015, Directing the Appointment of a Chapter 11 Trustee in These Chapter 11 Cases	54	3/31/15
30	Order, signed on 4/14/2015, Authorizing the Retention of Gazes LLC as Counsel for the Trustee	55	4/14/15
31	Motion of Kriti Ripley, LLC, Ashley River Properties II, LLC, and Ian J. Gazes, as Trustee for Emerald Investments, LLC and Ashley River Consulting, LLC, for Order approving Marketing, Bidding and Sale Procedures in Connection with Joint Plan of Liquidation	57	6/08/15
32	Joint Plan of Liquidation filed by the Trustee, Kriti Ripley, LLC and Ashley River Properties II, LLC	58	6/08/15
33	Disclosure Statement to accompany Joint Plan of Liquidation	59	6/08/15
34	Certificate of Service	60	6/10/15
35	Declaration of Davidson Williams, Managing Member, Kriti Ripley, LLC in support of Motion of Kriti Ripley, LLC, Ashley River Properties II, LLC, and Ian J. Gazes, as Trustee for Emerald Investments, LLC and Ashley River Consulting, LLC, for Order Approving Marketing, Bidding and Sale Procedures in connection with Joint Plan of Liquidation	61	6/16/15
36	Objection of the Gayla Longman Family Irrevocable Trust to Motion for Approval of Marketing, Bidding and Sale Procedures	62	6/17/15
37	Certificate of Service	63	6/18/15
38	Certificate of Service	64	6/18/15
39	Notice of Adjournment of Hearing on Motion of Kriti Ripley, LLC, Ashley River Properties II, LLC, And Ian J. Gazes, as Trustee for Emerald Investments, LLC and Ashley River Consulting, LLC, for Order Approving Marketing, Bidding and Sale Procedures in Connection With Joint Plan of Liquidation	65	6/19/15
40	Schulte Roth & Zabel LLP's Limited Objection To Motion For	66	6/25/15

	Order Approving Marketing, Bidding And Sale Procedures In Connection With Joint Plan Of Liquidation		
41	Notice of Filing of Revised Proposed Order Granting Motion of Kriti Ripley, LLC, Ashley River Properties II, LLC, and Ian J. Gazes, as Trustee for Emerald Investments, LLC and Ashley River Consulting, LLC, for Order Approving Marketing, Bidding and Sale Procedures in connection with Joint Plan of Liquidation	67	6/26/15
42	Declaration of Ian J. Gazes, Chapter 11 Trustee of Emerald Investments, LLC and Ashley River Consulting, LLC in Support of Motion of Kriti Ripley, LLC, Ashley River Properties II, LLC, and Ian J. Gazes, as Trustee for Emerald Investments, LLC and Ashley River Consulting, LLC, for an Order Approving Marketing, Bidding, and Sale Procedures in Connection with Joint Plan of Liquidation	69	6/29/15
43	Omnibus Reply of Ian J Gazes, as Trustee for Emerald Investments, LLC and Ashley River Consulting, LLC, to Objection to Motion for Order Approving Marketing, Bidding, and Sale Procedures in Connection with Joint Plan of Liquidation	70	6/29/15
44	Declaration of David Y. Wolnerman in Support of Objection to Motion for Approval of Bidding, Marketing and Sale Procedures	71	6/30/15
45	Application for FRBP 2004 Examination	72	6/30/15
46	Application to Employ Colliers International Charleston, LLC as Commercial Real Estate Broker	75	7/02/15
47	Objection of the Gayla Longman Family Irrevocable Trust to the Application to Retain Colliers International Charleston, LLC	76	7/06/15
48	Transcript regarding Hearing Held on 7/1/2015	80	7/06/15
49	Transcript regarding Hearing Held on 7/7/2015	82	7/07/15
50	Memorandum Opinion and Order, signed on 7/10/2015, Granting (I) Motion for Approval of Sale Procedures, and (II) Application to Retain Broker.	77	7/10/15
51	Order signed on 7/10/2015 Authorizing the Trustee to Retain Colliers International Charleston, LLC as Commercial Real Estate Broker	78	7/10/15
52	Order signed on 7/14/2015 Approving Marketing, Bidding and Auction Procedures	79	7/14/15
53	Order, signed on 7/22/2015, Denying Ex Parte Application for Order Pursuant to Federal Rule of Bankruptcy Procedure 2004 Directing Examination and Production of Certain Documents	81	7/22/15

54	All trial exhibits and all documents offered as evidence in connection with the evidentiary hearing on the Sale Motion	N/A	N/A
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Dated: New York, New York  
August 10, 2015

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